



# Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY  
DOCKET NO. 534

## IN THE MATTER OF GEORGE TRAYLOR

### DISPOSITION AGREEMENT

The State Ethics Commission ("Commission") and George Traylor ("Traylor") enter into this Disposition Agreement ("Agreement") pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On February 25, 1994, the Commission initiated, pursuant to G.L. c. 268B, §4(j), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Traylor. The Commission has concluded its inquiry and, on December 14, 1994, found reasonable cause to believe that Traylor violated G.L. c. 268A, §3.

The Commission and Traylor now agree to the following findings of fact and conclusions of law:

1. During the period relevant here, Traylor was a registered legislative agent in Massachusetts for various clients. Those clients, through their legislative agents and otherwise, track, monitor and lobby on many pieces of legislation that affect their interests.
2. Lobbyists are employed to promote, oppose or influence legislation.
3. One way in which some lobbyists further their legislative goals is to develop or maintain goodwill and personal relationships with legislators to ensure effective access to them. Some lobbyists entertain legislators in order to develop the desired goodwill and personal relationships.
4. From December 8, 1992 to December 14, 1992, Traylor stayed at the Las Palmas Del Mar Resort on the southern coast of Puerto Rico. Traylor stayed there with a number of other Massachusetts lobbyists and several legislators.
5. On December 13, 1992, Traylor and another Massachusetts lobbyist went on a fishing excursion with two Massachusetts legislators, former state representatives John Cox and Francis Mara, and their spouses. For that purpose, Traylor and the other lobbyist chartered a 40-foot fishing vessel with a captain and one-member crew. The boat trip lasted several hours and included deep sea fishing and a stop for snorkeling. A box lunch was provided. The cost of charting the boat was \$766, split equally between Traylor and the other lobbyist. Thus, Traylor provided each legislator and his spouse with entertainment at a cost of \$128 per couple.<sup>1/</sup>
6. General Laws c. 268A, §3(a) prohibits anyone from giving a state employee anything of substantial value for or because of any official act performed or to be performed by the state employee.
7. Massachusetts legislators are state employees.
8. Anything with a value of \$50 or more is of substantial value for §3 purposes.<sup>2/</sup>
9. By giving individual Massachusetts legislators entertainment worth \$50 or more, while each such legislator had taken or was in a position to take official action on proposed legislation that affected Traylor's client's

financial interests, Traylor gave those legislators gifts of substantial value for or because of acts within their official responsibility performed or to be performed by them. In doing so, Traylor violated G.L. c. 268A, §3(a).<sup>3/</sup>

10. The Commission is not aware of evidence that any of the foregoing gifts were given to legislators with the intent to influence any specific official act by them as legislators. The Commission is also unaware of evidence that the legislators, in return for gifts, took any official action concerning any proposed legislation which would have affected Traylor's clients. In other words, the Commission is aware of no evidence that there was a *quid pro quo*. However, even if Traylor's conduct was only intended to create goodwill, it was still impermissible.

11. Traylor refused to cooperate with the Commission in its investigation.

In view of the foregoing violations of G.L. c. 268A, §3(a), the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Traylor:

(1a that Traylor pay to the Commission the sum of two thousand dollars (\$2,000) as a civil fine for violating G.L. c. 268A, §3(a); and

(2a that Traylor waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this agreement in any related administrative or judicial proceeding to which the Commission is or may be a party.

DATE: October 23, 1995

<sup>1/</sup> In earlier deposition agreements with these legislators, the entire cost of the charter was stated as being \$383. At that time, the Commission believed the full cost of the charter had been charged to Traylor's hotel bill. The Commission has since learned that the \$383 charge on Traylor's bill represented only one half of the total cost of the charter.

<sup>2/</sup> See *Commonwealth v. Famigletti*, 4 Mass. App. 584, 587 (1976); *EC-COI-93-14*.

<sup>3/</sup> For §3 purposes, it is unnecessary to prove that the gratuities given were generated by some specific identifiable act performed or to be performed. As the Commission explained in *Advisory No. 8* (issued May 14, 1985):

[E]ven in the absence of any specifically identifiable matter that was, is or soon will be pending before the official, section 3 may apply. Thus, where there is no prior social or business relationship between the giver and the recipient, and the recipient is a public official who is in a position to use his authority in a manner which could affect the giver, an inference can be drawn that the giver was seeking the goodwill of the official because of a perception by the giver that the public official's influence could benefit the giver. In such a case, the gratuity is given for as yet unidentified "acts to be performed."

Specifically, §3 applies to generalized goodwill-engendering entertainment of legislators by private parties, even where no specific legislation is discussed. *In re John Hancock Mutual Life Insurance Company*, 1994 SEC 646 (Hancock violated §3(a) by providing meals, golf and event tickets to legislators); *In re Flaherty*, 1991 SEC 498 (majority leader violates §3 by accepting six Celtics tickets from billboard company's lobbyists); *In re Massachusetts Candy and Tobacco Distributors, Inc.*, 1992 SEC 609 (distributors' association violates §3 by providing free day's outing [a barbecue lunch, golf or tennis, a cocktail hour and a clam bake dinner] worth over \$100 per person to over 50 legislators, their staffers and family members, with the intent of enhancing the distributors' image with legislators who were in a position to benefit the distributors).

Section 3 applies to meals and golf, including those occasions motivated by business reasons, for example, the so-called "business lunch." *In re U.S. Trust*, 1988 SEC 356. Finally, §3 applies to entertainment gratuities of \$50 or more even in connection with educational conferences. *In re Stone and Webster*, 1991 SEC 522; *In re State Street Bank*, 1992 SEC 582.

On the present facts, §3 applies to entertainment of legislators by Traylor where the intent was generally to create goodwill and the opportunity for access, even though specific legislation was not discussed.